

COMMISSIONERS APPROVAL

GRANDSTAFF *CG*

ROKOSCH

THOMPSON

CHILCOTT *gc*

DRISCOLL *KD*

PLETTENBERG (Clerk & Recorder)

Members Present..... Commissioner Carlotta Grandstaff,
Commissioner James Rokosch, Commissioner Greg Chilcott and Commissioner Kathleen
Driscoll

Date.....March 6, 2008

Minutes: Beth Perkins

► The Board met a public meeting for Adams Acres Four Minor subdivision. Present
were Civil Counsel Alex Beal, Planner John Lavey, Representative Terry Nelson, and
Howard Anderson.

Commissioner Grandstaff called the meeting to order and requested any conflicts of
interest, hearing none. She then requested the Planning Staff Report to be read.

John presented the Staff Report as follows:

**ADAMS ACRES IV (ADAMS)
FIVE-LOT MINOR SUBDIVISION**

STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS

CASE PLANNER: John Lavey

**REVIEWED/
APPROVED BY:** Renee Lemon

**PUBLIC HEARINGS/
MEETINGS:** BCC Public Meeting: 9:00 a.m. March 6, 2008
Deadline for BCC action (35 working days): March 19, 2008

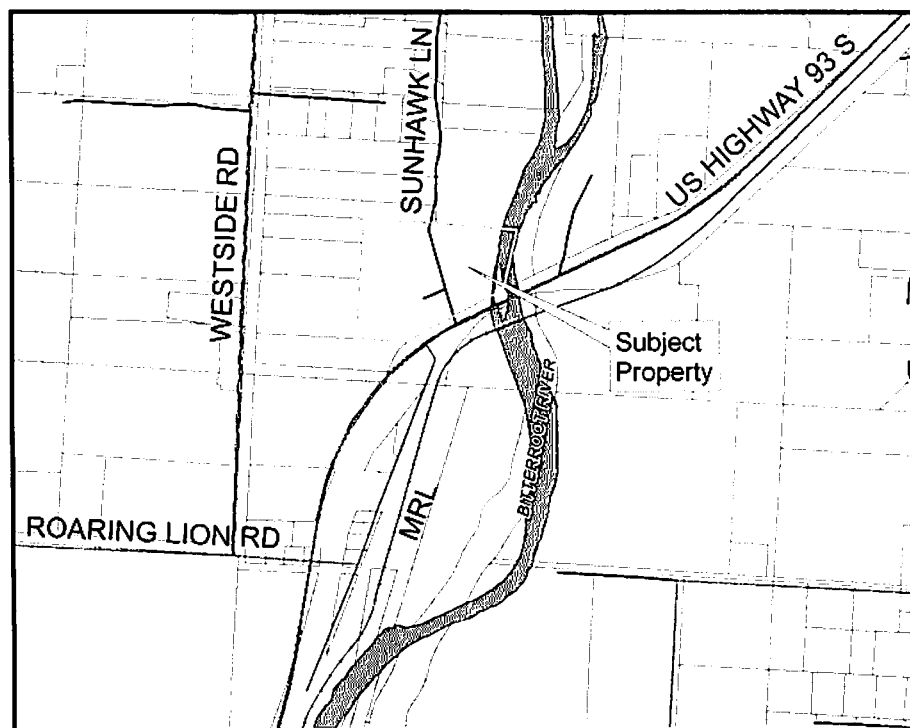
SUBDIVIDER: Jack Adams

913 Our Lane
Hamilton, MT 59840

OWNER: Dan and Roberta Connor
PO Box 2359
Paso Robles, CA 93447

REPRESENTATIVE: Applebury Survey
914 Highway 93
Victor, MT 59875

LOCATION OF REQUEST: The property is located south of Hamilton off US Highway 93. (See Map 1)



Map 1:

Location Map
(Source Data: Ravalli County GIS Department)

**LEGAL DESCRIPTION
OF PROPERTY:**

Tract 3 of COS# 1370, located in Section 12, T5N,
R21W, P.M.M., Ravalli County, Montana.

**APPLICATION
INFORMATION:**

The subdivision application was determined complete on January 29, 2008. Agencies were notified of the subdivision and comments received by the Planning Department not included in the application packet are Exhibits A-1 through A-5 of the staff report. **This**

**subdivision is being reviewed under the
subdivision regulations amended May 24, 2007.**

LEGAL NOTIFICATION: Notice of the project was posted on the property and adjacent property owners were notified by regular mail postmarked January 29, 2008. No public comments have been received to date.

**DEVELOPMENT
PATTERN:**

Subject property	Vacant
North	Residential
South	Highway Right-of-Way
East	Agricultural
West	Bitterroot River/Residential

INTRODUCTION

The Adams Acres IV First Minor subdivision is a five-lot split proposed on 18.8 acres. The subject property is currently vacant, and is proposed for single-family dwellings. A wetlands delineation was performed, and a series of wetlands identified on the property. The applicant is proposing no-build/alteration zones around the wetlands, as well as over areas of heavy vegetation and steep slopes. Roughly 40% of the property is encumbered by the proposed no-build/alteration zones.

Staff recommends conditional approval of the subdivision proposal.

**RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS
MARCH 6, 2008**

**ADAMS ACRES IV
FIVE-LOT MINOR SUBDIVISION**

RECOMMENDED MOTION

(Staff Note: Prior to making a decision on the subdivision, the BCC must determine the appropriate parkland dedication.)

That the Adams Acres IV Minor Subdivision be **approved**, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

**RECOMMENDED MITIGATING CONDITIONS OF APPROVAL FOR THE
SUBDIVISION AND VARIANCE REQUEST**

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Agriculture*)

Notification of Irrigation Facilities and Easements. Within this subdivision there is an irrigation easement and drainage easement, as shown on the final plat. All downstream water right holders have the right to maintain and repair their irrigation facilities whenever necessary to keep them in good condition. Activities associated with the maintenance of irrigation facilities may include the operation of heavy equipment, the occasional burning of ditch vegetation, and the use of herbicides. Downstream water right holders must approve any relocation or alteration (e.g. installation of a culvert) of irrigation ditches/pipelines. Any act that damages or destroys a ditch, interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance, which includes but is not limited to the placement of structures or the planting of vegetation other than grass, is expressly prohibited. (*Section 3-2-8(a) and Section 3-2-8(b)(v)(B), RCSR, Effects on Agricultural Water User Facilities*)

Notification of Water Rights. Lot 2 within this subdivision does not currently have the right to take water from the irrigation and drainage ditches within this subdivision. Taking water without a water right for any purpose is illegal. However, Lot 1 and Lots 3 through 5 do have the right to take water from the irrigation and drainage ditches on the property, as detailed in the Irrigation Agreement filed with this subdivision. Residents should consult with the Montana Department of Natural Resources for questions on water rights. (*Section 3-2-8(b)(v)(B), RCSR, Effects of Agricultural Water User Facilities*)

Limitation of Access onto a Public Road. A "no-ingress/egress" restriction exists along the US Highway 93 and portions of the Sunhawk Lane frontages of this subdivision, excepting the approved approaches to Sunhawk Lane from US Highway 93. All lots within this subdivision must use the approved approach. Locations of the no-ingress/egress restrictions can be found on a reduced copy of the final plat. [*The applicant shall provide a reduced copy of the plat showing the no-ingress/egress zones.*] This limitation of access may be lifted or amended only with the approval of the Montana Department of Transportation and the Board of Ravalli County Commissioners. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health and Safety*)

Notification of Road Maintenance Agreement. The internal subdivision roads, Sunhawk Lane and Dalton Avenue, are not maintained by Ravalli County, the State of Montana, or any other governmental entity. Neither the County nor the State assumes any liability for lacking or improper maintenance. A road maintenance agreement for these roads was filed with this subdivision and outlines which parties are responsible for maintenance

and under what conditions. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services*)

Notification of No-Build/Alteration Zones. Within this subdivision there are no-build/alteration zones, as shown on the plat, to restrict building in areas with steep slopes and to protect natural features such as wetlands and vegetation. No new structure may be constructed in these areas. No new utilities may be constructed in these areas. No fill may be placed in these areas and the vegetation shall be retained in its natural condition. Roads, trails, and utility crossings through these areas are not permitted. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Natural Environment and Wildlife & Wildlife Habitat*)

Notification of Proximity to Potential Dam Inundation Area in the Event of a Catastrophic Failure of the Lake Como Reservoir Dam and/or Painted Rocks Reservoir Dam. A portion of this subdivision may be located within the dam inundation areas for the Painted Rocks Dam and the Lake Como Dam. The Painted Rocks Reservoir Dam is owned and operated by the State of Montana, Department of Natural Resources and Conservation District, Water Resources Division, Dam Safety Program (48 North Last Chance Gulch, P.O. Box 201601, Helena, Montana, 59620-1621). The Lake Como Reservoir Dam is owned and operated by the Bitterroot Irrigation District (1182 Lazy J Lane, Corvallis, Montana, 59828), and the safety of the dam is overseen by the Bureau of Reclamation, Dam Safety Division (Montana Area Office, 2950 4th Avenue North, Billings, Montana, 59107). For more information regarding these dams, please contact the above agencies. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Public Health and Safety*)

Notification of Severe Soils. Within this subdivision there are areas of the property identified as potentially having soils rated as severe for road construction and building sites. The approximate locations of these areas can be found on a reduced copy of the final plat and descriptions of the severe soils in question are included as exhibits to this document [*the applicant shall include the reduced plat and exhibits as attachments*]. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Public Health and Safety*)

Proximity to Bitterroot River. This property is located in close proximity to the Bitterroot River. The banks of the River are subject to potential soil erosion, flooding and movement of the River's channel. Approval of this subdivision is not a guarantee that properties within this subdivision will be safe from flooding and/or surfacing high groundwater. It is recommended that property owners obtain flood insurance. No paving is permissible in areas delineated as being within the 100-year floodplain. For a complete table of development restrictions and allowances in and near the floodplain, consult the effective Ravalli County Floodplain Regulations. All development within the 100-year floodplain must meet the minimum development standards

set forth in the effective Ravalli County Floodplain Regulations. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Public Health and Safety*)

Notification of Proximity to Montana Rail-Link Railroad. This subdivision is located approximately 500 feet from the Montana Rail-Link railroad grade. Standard operation of the railroad can include elevated noise levels, exhaust fumes, and engine headlights, which may be objectionable to some people. In addition, there are inherent hazards associated with railroad operations. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Public Health & Safety*)

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

Proximity to Bitterroot River. This property is located in close proximity to the Bitterroot River. The banks of the River are subject to potential soil erosion, flooding and movement of the River's channel. A professional survey has been done for this subdivision and portions of the property are located within the 100-year floodplain of the Bitterroot River. Approval of this subdivision is not a guarantee that properties within this subdivision will be safe from flooding and/or surfacing high groundwater. It is recommended that property owners obtain flood insurance. No paving is permissible in areas delineated as being within the 100-year floodplain. For a complete table of development restrictions and allowances in and near the floodplain, consult the effective Ravalli County Floodplain Regulations. All development within the 100-year floodplain must meet the minimum development standards set forth in the effective Ravalli County Floodplain Regulations. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Public Health and Safety*)

Waiver of Protest to Creation of RSID/SID. Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to, a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision, including related right-of-way, drainage structures, and traffic control signs. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services*)

Living with Wildlife. Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the occasional presence of wildlife such as deer, elk, black bear, mountain lion, wolf, coyote, fox, skunk, raccoon and magpie. Each lot owner shall obtain or be provided and read a copy of the brochure "Living with wildlife," available from the Montana Fish, Wildlife & Parks office in Missoula for brochures that can help homeowners "live with wildlife." Alternatively, see FWP's web site at www.fwp.mt.gov. (*Section 3-2-8(b)(v), RCSR, Effects on Agriculture and Wildlife & Wildlife Habitat*)

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. There is high potential for **vegetation damage by wildlife, particularly from deer** feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners must be aware of this potential damage. They should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Homeowners should consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. **Gardens, fruit trees or orchards** are a major wildlife attractant, and fruit-bearing trees and shrubs can regularly attract bears in the fall. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or vegetable material can attract bears, skunks and other wildlife. Gardens should be fenced with one-foot of fencing material below ground level and be at least eight feet in height, in order to discourage wildlife such as deer from feeding in gardens. The top rail should be made of something other than wire to prevent wildlife from entanglement. Netting over gardens can help deter birds from eating berries. Electric fencing is necessary to effectively prevent wildlife such as bears from entering a garden or fruit tree/shrub area, but only if the fence is properly constructed and regularly monitored and maintained to ensure proper use and function. Consult with the Montana Department of Fish, Wildlife and Parks on the proper techniques to develop and maintain an effective electric fence.
- c. If stored outdoors, **garbage** should be in secure bear-resistant containers; otherwise it should be stored indoors prior to curbside pick-up or transport to a centralized garbage collection site, in order to avoid attracting wildlife such as bears and raccoon. If curbside garbage pick-up is available, garbage cans may not be set out until the morning of garbage pickup and must be brought in no later than that same evening. (Consult Montana Fish, Wildlife & Parks for information on purchasing or constructing bear-resistant trash containers or storage areas.)
- d. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a

threat to public safety.” Also, homeowners must be aware that deer might occasionally attract mountain lions to the area.

- e. **Birdseed** is an attractant to bears, and outdoor birdfeeders are strongly discouraged from April 1st through the end of November. If used, bird feeders must: a) be suspended a minimum of 20 feet above ground level, b) be at least 4 feet from any support poles or points, and c) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- f. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the immediate control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124). Keeping pets confined also helps protect them from predatory wildlife.
- g. **Pet food and livestock feed** must be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such as bears, mountain lions, skunks, raccoons, and other wildlife. **When feeding pets and/or livestock** do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- h. **Barbecue grills** should be stored indoors, and permanent outdoor barbecue grills are discouraged. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife.
- i. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer becoming entangled in the fence or injuring themselves when trying to jump the fence. We encourage the use of split rail fences.
- j. **Compost piles** can attract skunks and bears and should be avoided. If used they should be kept indoors or built to be wildlife-resistant. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps. (Kitchen scraps could be composted indoors in a worm box with minimum odor and the finished compost can later be added to garden soil.)
- k. **Apiaries (bee hives)** could attract bears in this area and should be avoided. (If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.)
- a. These “living with wildlife” covenants cannot be altered or eliminated without consent of the governing body (Ravalli County Commissioners).

No-Build/Alteration Zones. Healthy, naturally functioning riparian areas and wetlands benefit fish and wildlife, as well as agriculture and recreation. The

goal of the “no build/alteration zones” along the Bitterroot River, around vegetation, and covering the wetlands is to help preserve the water quality and functionality of these water features, protect and enhance riparian areas, and protect property from eroding banks and possible flooding. Encouraging the development of native vegetation (including shrubs and trees)--while *discouraging* actions such as grading, planting and irrigating lawns, mowing or cutting or clearing vegetation, and livestock grazing--would help preserve the functionality of these areas, protect and improve wetland vegetation, enhance slope stability, and protect property from eroding banks and possible flooding. (*Section 3-2-8(b)(v), RCSR, Effects on Natural Environment and Wildlife & Wildlife Habitat*)

The “No Build/Alteration Zones” are depicted on the plat. These zones are protected by the following covenants (restrictions) to help avoid damage to the River, its riparian areas, and wetlands, as well as enhancing these areas:

- a) No building, no new roads or alteration is allowed within the no-build/alteration zones.
- b) Only non-motorized access and use of the no-build/alteration zones is allowed, except for certain maintenance needs such as weed spraying.
- c) Do not cut or remove live or dead vegetation, particularly shrubs and trees from the no-build/alteration zones. Wood (i.e., fallen branches, downed trees) is an important part of fish habitat and contributes significantly to overall stream health. Wood regularly causes bed scour that creates pools where fish reside to feed and seek cover. Wood also stores sediment that is used for spawning. Dead trees also function as important wildlife nesting habitat. Exception: proper use of chemicals or other methods of control (other than mowing) for noxious weeds is allowed, and planting appropriate native riparian vegetation (trees, shrubs) is allowed.
- d) Do not plant lawns in the no-build/alteration zones. Leave or plant native vegetation as ground cover as this avoids the use of fertilizers that contribute to water quality problems.
- e) If planting is planned for these areas, the goal should be to re-establish native plant species appropriate to the site.
- f) In general, keep livestock out of the no-build/alteration zones, and do not include them in corrals. Use fences to keep livestock from trampling and grazing vegetation in these zones.
- g) Certain actions in or near the identified wetlands and Bitterroot River may require state and/or federal permit(s). Contact the Ravalli Conservation District office in Hamilton, the Ravalli County Floodplain Administrator, and/or the Army Corps of Engineers for further information.

- h) In summary, allow the riparian and wetland areas within the no-build/alteration zones to remain undisturbed. Do not modify them unless such change would help return the area to a natural state.
- i) These riparian covenants cannot be altered or eliminated without consent of the governing body (Ravalli County Commissioners).

Lighting for New Construction. To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light should be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. For more information, visit www.darksky.org. (Section 3-2-8(b)(v)(B), RCSR, Effects on Natural Environment, Wildlife and Wildlife Habitat, and Public Health and Safety)

Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their structures tested for radon. Contact the Ravalli County Environmental Health Department for further information. (Section 3-2-8(b)(v)(B), RCSR, Effects on Public Health & Safety)

Control of Noxious Weeds. A weed control plan has been filed in conjunction with this subdivision. Lot owners shall control the growth of noxious weeds on their respective lot(s). Contact the Ravalli County Weed District for further information. (Section 3-2-8(b)(v)(B), RCSR, Effects on Agriculture and Natural Environment)

Required Posting of County-Issued Addresses for Lots within this Subdivision. The Hamilton Rural Fire District has adopted the Fire Protection Standards, which require lot owners to post County-issued addresses at the intersection of the driveway leading to each residence and the road providing access to the lot as soon as construction on the residence begins. (Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)

Access Requirements for Lots within this Subdivision. The All Valley Fire Council, which includes the Hamilton Rural Fire Department, has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural

Fire Department for further information. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*

Building Standards. The All Valley Fire Council recommends that houses within this subdivision be built to International Residential Building Code (IRBC) building standards. It is recommended that any commercial buildings be constructed to meet state building code requirements. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*

Wood Stoves. The County recommends that home owners refrain from installing wood stoves if possible. The County further recommends that wood and other biomass burning stoves not be used as the primary heat source. If a homeowner chooses to burn wood as a back-up heat source, the County strongly encourages them to install an EPA-certified wood stove as the best option to reduce air pollution and more specifically, to install an EPA-certified pellet stove. More information on low emission, EPA-certified wood stoves is available at <http://www.epa.gov/woodstoves/index.html>. The State of Montana offers an Alternative Energy Systems Tax Credit to offset the cost of purchasing and installing a low emission wood or biomass combustion device such as a pellet or wood stove. Besides the tax credit for qualifying wood stoves, individual Montana residents can claim a tax credit for energy conservation investments made to a home or other building. For more information on the energy conservation tax credits and ways to save energy, please see the *Warm Hearts, Warm Homes* webpage (<http://deq.mt.gov/Energy/warmhomes/index.asp>) on the Montana Department of Environmental Quality's website. *(Section 3-2-8(b)(v)(B), RCSR, Effects on the Natural Environment)*

Archeological Resources. If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the State Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate. *(Section 3-2-8(b)(v), RCSR, Effects on Natural Environment)*

Amendment. Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. *(Effects on all six criteria)*

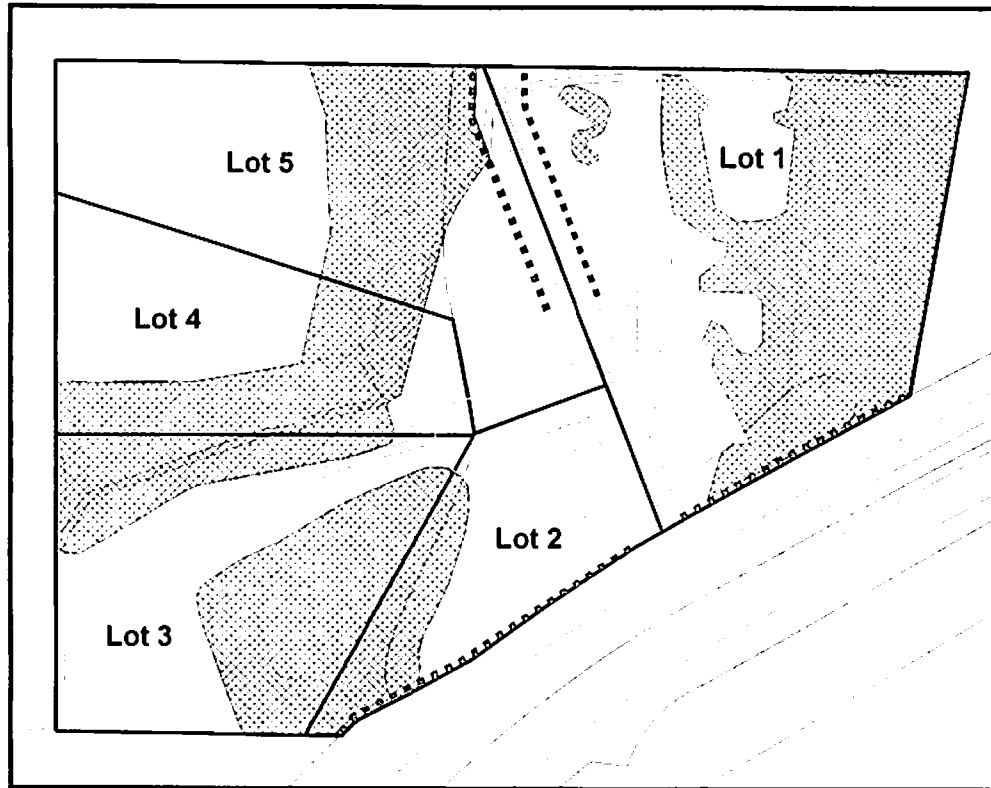
3. The subdividers shall include an RSID/SID waiver in a notarized document filed with subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services)*

4. The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health & Safety)*
5. Prior to final plat approval, the subdividers shall provide a letter from the Hamilton Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for all lots. Alternatively, the subdividers may provide evidence that a \$500 per lot contribution has been submitted to the Hamilton Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*
6. The following statement shall be shown on the final plat: "The All Valley Fire Council, which includes the Hamilton Rural Fire District, has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire District for further information". *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*
7. The final plat shall show no-ingress/egress zones along the US Highway 93 and a portion of the Sunhawk Lane frontages of the subdivision, excepting the approved approaches to Sunhawk Lane from US Highway 93, as approved by the Montana Department of Transportation. [See Map 2] *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health & Safety)*
8. Stop signs and road name signs shall be installed at the intersection of Dalton Avenue with Sunhawk Lane, and at the intersection of Sunhawk Lane with US Highway 93 prior to final plat approval. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health & Safety)*
9. The subdivider shall submit an (amount)-per-unit contribution to the Ravalli County Treasurer's Office to be deposited into an account for Public Safety Services (Sheriff, E-911, DES) prior to final plat approval. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health & Safety)*
10. The internal subdivision roads shall be labeled as "public road and utility easements" on the final plat. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services)*
11. The subdivider shall submit a letter or receipt from the Hamilton School District stating that they have received an (amount)-per-lot contribution prior

to final plat approval. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services)*

12. The road maintenance agreement for the internal subdivision roads shall state that other parcels that may have beneficial use of the internal subdivision roads shall be allowed to join as members of the agreement without the consent of the current members. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services)*
13. The applicants shall provide evidence that plans for a Collection Box Unit (CBU), including location of the box and specifications, have been approved by the local post office prior to final plat approval. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services)*
14. The final plat shall show no-build/alteration zones on the steep slopes, wetlands, and vegetated areas, as shown on the preliminary plat (See Map 2). Public road and utility easements, as shown on the preliminary plat, shall not be included in the no-build/alteration zones, nor shall the driveway access to Lot 4. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Natural Environment, Wildlife and Wildlife Habitat, and Public Health & Safety)*
15. The irrigation and drainage easement shall be shown on the final plat as shown on the preliminary plat. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Agricultural Water User Facilities)*
16. The applicant shall provide a detailed description of the existing water rights in the irrigation agreement, which will include copy(s) of the abstract(s) delineating the existing rights. *(Effects on Agricultural Water User Facilities)*

Map 2:



Approximate locations of no-build/alteration zones and no-ingress/egress zones

[Note: No-build/alteration zones shown as cross-hatched areas. no-ingress/egress zones shown as dashed lines.]

(Source Data: Applebury Survey and Ravalli County GIS Department)

FINAL PLAT REQUIREMENTS (RAVALLI COUNTY SUBDIVISION REGULATIONS)

The following items shall be included in the final plat submittal, as required by the Ravalli County Subdivision Regulations, Section 3-4-4(a) et seq.

1. A statement from the project surveyor or engineer prior to final plat approval outlining how each final plat requirement or condition of approval has been satisfied.
2. One paper and two Mylar 18" x 24" or larger copies of the final plat, completed in accordance with the Uniform Standards for Final Subdivisions Plats (ARM 8.94.3003). (One paper copy may be submitted for the first proofing.) The final plat shall conform to the preliminary plat decision. In accordance with the conditions of approval and RCSR Section 3-4-4(a)(ii), the following features are required on the Final Plat:
 - a. Project name
 - b. Title block
 - c. Certificate of registered owner – notarized
 - d. Certificate of registered land surveyor with seal

- e. Certificate of governing body approval
 - f. Signature block for Clerk and Recorder, preferably in lower right hand corner
 - g. Certificate of public dedication
 - h. Certificate of park cash-in-lieu payment
 - i. Other certifications as appropriate
 - j. North arrow
 - k. Graphic scale
 - l. Legal description
 - m. Property boundaries (bearings, lengths, curve data)
 - n. Pertinent section corners and subdivision corners
 - o. Names of adjoining subdivisions/certificates of survey
 - p. Monuments found
 - q. Witness monuments
 - r. Acreage of subject parcel
 - s. Curve data (radius, arc length, notation of non-tangent curves)
 - t. Line data (lengths to tenths of a foot, angles/bearings to nearest minute)
 - u. Lots and blocks designated by number (dimensions/acreage)
 - v. Easements/rights of ways (location, width, purpose, ownership)
 - w. Dedication for public use
 - x. No-build/alteration zones
 - y. No-ingress/egress zones
 - z. Water resources (rivers, ponds, etc.)
 - aa. Floodplains
 - bb. Irrigation canals including diversion point(s), etc.
 - cc. High-pressure gas lines
 - dd. Existing and new roads (names, ownership, etc.)
 - ee. Existing and proposed utility, irrigation, and drainage easements, as shown on the preliminary plat, shall be shown on the final plat.
 - ff. No ingress/egress zones along US Highway 93 and Sunhawk lane, excepting the approved approach off US Highway 93.
 - gg. No-build/alteration zones, as shown on the preliminary plat, shall be shown on the final plat.
 - hh. The internal subdivision roads shall be labeled as "public road and utility easements" on the final plat.
 - ii. The irrigation easement and drainage easement shall be shown on the final plat as shown on the preliminary plat.
3. The original copy of the preliminary plat decision shall be submitted with the final plat submittal.
 4. Any variance decisions shall be submitted with the final plat submittal.
 5. Copies of extensions of the preliminary plat approval period shall be submitted with the final plat submittal.
 6. The final plat review fee shall be submitted with the final plat submittal.

7. Consent to Plat form, including notarized signatures of all owners of interest, if the developer is not the underlying title holder, shall be submitted with the final plat submittal.
8. A Title Report or updated Abstract dated no less than one (1) year prior to the date of submittal shall be submitted with the final plat submittal.
9. The DEQ Certificate of Subdivision Approval or RCEH approval shall be submitted with the final plat submittal.
10. Copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ shall be submitted with the final plat submittal.
11. The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision shall be submitted with the final plat submittal.
12. A copy of the appraisal report, per Section 6-1-7, dated no less than six (6) months from the date of submittal, for calculating the cash-in-lieu of parkland dedication and a receipt from the County Treasurers Office for the payment of cash-in-lieu of parkland dedication.
13. Road and Driveway approach and encroachment permits from RCRBD and/or MDOT as appropriate.
14. Evidence of Ravalli County approved road name petitions for each new road.
15. Engineering plans and specifications for all central water and sewer systems and any other infrastructure improvements requiring engineering plans.
16. Final Road Plans and Grading and Storm Water Drainage Plans for the internal roads shall be submitted with the final plat submittal.
17. Road certification(s).
18. Utility availability certification(s) shall be submitted with the final plat submittal.
19. A Road Maintenance Agreement, signed and notarized, shall be submitted with the final plat submittal.
20. Signed and notarized Master Irrigation Plan, or if one is not required, written and notarized documentation showing how the water rights are to be divided or written and notarized documentation indicating that the water rights will be removed from the property.
21. A notarized statement from each downstream water user specifically authorizing any alteration, such as installation of culverts, bridges, etc., or relocation of an irrigation ditch.
22. Protective covenants to be filed with the final plat that are signed and notarized shall be submitted with the final plat submittal.
23. Copies of permits issued by the Bitterroot Conservation District or the US Army Corps of Engineers when construction occurs on environmentally sensitive features shall be submitted with the final plat submittal.
24. A copy of the letter sent to the Hamilton School District stating the applicant has made or is not willing to make a voluntary contribution to the school district to mitigate impacts of the subdivision on the school district that are not related to capital facilities; shall be submitted with the final plat submittal.
25. Signed and notarized homeowner association documents, including bylaws, covenants, and/or declarations.

26. Evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider, Professional Engineer, or contractor, as may be appropriate and required. A Professional Engineer's certification shall be required in any instance where engineered plans are required for the improvement. Alternatively, an improvements agreement and guaranty shall be required. (Refer to Section 3-4-2).
- a. Specific infrastructure improvements required for this subdivision are the installation of stop signs and road name signs at roadway intersections, installation of a CBU, and the construction of the internal subdivision roads.

SUBDIVISION REPORT

COMPLIANCE WITH PREREQUISITES TO APPROVAL

Section 3-2-8(a) of the RCSR states that the BCC shall not approve or conditionally approve a subdivision application and preliminary plat unless it establishes by credible evidence that the proposed subdivision meets the following requirements:

A. Provides easements for the location and installation of any planned utilities.

Findings of Fact

1. Existing utilities are located along the US Highway 93 frontage of the subdivision, and in the easement for Sunhawk Lane. (Adams Acres IV Subdivision File)
2. A proposed 60-foot wide road and utility easement, Dalton Ave, will provide utilities to proposed Lots 3 and 4. (Adams Acres IV Subdivision File)
3. *Existing and proposed utility easements are required to be shown on the final plat. (Final Plat Requirement 2)*

Conclusion of Law

The proposed subdivision application provides for utility easements.

B. Provides legal and physical access to each parcel within the subdivision and the notation of that access is included on the applicable plat and in any instrument transferring the parcel.

Findings of Fact

1. The subject property gains legal and physical access from US Highway 93. (Adams Acres IV Subdivision File)
2. The internal roads Sunhawk Lane and Dalton Avenue will provide legal and physical access to all lots within the subdivision. However, legal access to a portion of Sunhawk Lane from Lot 1 and Lot 5 will be precluded by a no-ingress/egress zone beginning near the intersection of

Dalton Avenue and extending to the northern property boundary. (Adams Acres IV Subdivision File)

3. A Road Maintenance Agreement outlines what parties are responsible for maintaining the roads within the subdivision, and under what conditions. (Adams Acres IV Subdivision File)
4. *The final plat shall show no-ingress/egress zones along the US Highway 93 and a portion of the Sunhawk Lane frontages of the subdivision. (Condition 7)*

Conclusion of Law

Legal and physical access will be provided on US Highway 93 and the internal roads.

- C. Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section [3-4-2] of these regulations.**

Findings of Fact

1. The applicant is proposing to construct Sunhawk Lane and Dalton Avenue to meet current county standards. The road plans have been preliminarily approved by the Ravalli County Road and Bridge Department. (Adams Acres IV Subdivision File) (Exhibit A-5)
2. According to the preliminary road plans, the paved section of Sunhawk Lane will end roughly where an existing culvert is located within the roadway easement. The applicant is proposing a no-ingress/egress zone along both sides of the roadway from the culvert to the northern property boundary, precluding legal access to the road. Pursuant to RCSR Section 5-4-5(a)(4), roads through subdivisions that do not provide access to lots within the subdivision are exempt from paving requirements. (Section 5-4-5(a)(4), RCSR)
3. The applicant is required to submit evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider prior to final plat approval. (Section 3-4-4(a)(xxvi), RCSR)
4. *Specific infrastructure improvements required for this subdivision are the installation of stop signs and road name signs at roadway intersections, installation of a CBU, and the construction of the internal subdivision roads. (Conditions 8 and 13 and Final Plat Requirement 26)*

Conclusion of Law

The final plat requirements or an improvements agreement and guaranty will ensure that all improvements are installed.

- D. Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 have**

been considered and will be accomplished before the final plat is submitted.

Findings of Fact

1. 76-3-504(1)(j), MCA states that when a subdivision creates parcels with lot sizes averaging less than 5 acres, the subdivider is required to:
 - (i) reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserve and sever any remaining surface water rights from the land;
 - (ii) if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or
 - (iii) reserve and sever all surface water rights from the land.
2. The average lot size for this proposal is approximately 3.8 acres. (Adams Acres IV Subdivision File)
3. The applicant is reserving all of the water rights and transferring those rights to a Homeowners Association, where they will be administered and maintained for the benefit of the owners of Lot 1 and Lots 3 through 5. (Adams Acres IV Subdivision File)
4. The subdivision has the following water rights:
 - (a) DNRC right 76H 169816, which appropriates 112.2 gallons per minute (GPM) from Roaring Lion Creek.
 - (b) DNRC right 76H 169817, which appropriates 58.34 GPM from Roaring Lion Creek.
 - (c) DNRC right 76H 169818, which appropriates 224.4 GPM from Roaring Lion Creek.
 - (d) DNRC right 76H 169819, which specifies a source from Roaring Lion Creek, but does not appropriate an amount.
5. *Condition 1 notifies individual lot owners of the right to take water from the irrigation easement within the property.*

Conclusion of Law

With the requirements of final plat approval and the mitigating conditions of approval, this prerequisite has been met.

- E. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Findings of Fact

1. 76-3-504(1)(k) MCA states that, except as provided in subsection (1)(k)(ii) (the proposal does not meet the criteria in this subsection), the subdivider is required to establish ditch easements in the subdivision that:
 - (a) are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;
 - (b) are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and
 - (c) prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.
2. The applicant is proposing a 10-foot wide irrigation easement centered on an existing ditch, which traverses Lots 1, 3, 4, and 5. (Adams Acres IV Subdivision File)
3. The placement of structures or the planting of vegetation other than grass within the irrigation easement is prohibited. (76-3-504(1)(k) MCA).
4. *To ensure that the provisions of 76-3-504(1)(k) MCA are met, the following requirement and condition shall be met prior to final plat approval:*
 - *The proposed 10-foot wide irrigation easement is required to be shown on the final plat, as shown on the preliminary plat. (Final Plat Requirement 2)*
 - *A notification that the placement of structures or the planting of vegetation other than grass is prohibited without the written permission of the ditch owner shall be included in the notifications document. (Condition 1)*

Conclusion of Law

With the requirement and condition of final plat approval, this prerequisite will be met.

F. Provides for the appropriate park dedication or cash-in-lieu, if applicable.

Findings of Fact

1. The application states that 0.52 acres are required to meet the parkland dedication requirement. (Adams Acres IV Subdivision File)
2. RCSR Section 6-1-5(a) requires a subdivider to make a land donation to the County, make a cash donation to the County, reserve land within the development for the recreational uses for those within the development, and/or reserve land for one or more of the following purposes:
 - (a) Protection of critical wildlife habitat;
 - (b) Protection of cultural, historical, or natural resources;
 - (c) Protection of agricultural lands; or

- (d) Protection of aesthetic values, including open space and scenic vistas
2. Pursuant to RCSR Section 6-1-5(a)(4)(b), the applicant is proposing to meet the parkland dedication requirement by delineating wetlands and vegetated areas as no-build/alteration zones. Roughly 5.4 acres will be encumbered by the no-build/alteration zones. (Application)
 3. In a letter dated February 18, 2008, the Ravalli County Park Board recommends that the applicant provide cash-in-lieu to meet their park obligation. (Exhibit A-1)
 4. In accordance with 76-3-621(4), MCA, "the governing body, in consultation with the subdivider and the planning board or park board that has jurisdiction, may determine suitable locations for parks, playgrounds and giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land donation, cash donation, or a combination of both. When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land donation." (See also Section 6-1-5(e), RCRS)

Conclusion of Law

1. The applicant has proposed a parkland donation that meets the park area requirements.
2. In accordance with the Park Board's recommendation, it appears the proposal to meet the parkland dedication may not be appropriate.
3. The BCC will evaluate the proposal and consider the expressed preference of the subdivider and the recommendations of the Park Board and Planning Board during their deliberations. A final determination as to what an appropriate parkland dedication is for this subdivision will be made by the BCC.

G. Overall Conclusion on Prerequisite Requirements

Finding of Fact

Evaluation of the appropriateness of the parkland dedication will be completed during the BCC review of the proposal.

Conclusion of Law

With the conditions and requirements of final plat approval, and a BCC decision on parkland dedication, there is credible evidence that the subdivision application meets the prerequisite requirements.

COMPLIANCE WITH APPLICABLE REGULATIONS

Section 3-2-8(b) of the RCSR states that in approving, conditionally approving, or denying a subdivision application and preliminary plat, the BCC shall ensure the subdivision application meets Section 3-2-8(a) above, and whether the proposed subdivision complies with:

A. These regulations, including, but not limited to, the standards set forth in Chapter 5.

Findings of Fact

1. The lot layout as indicated on the preliminary plat meets the design standards in Chapter 5 of the RCSR. (Adams Acres IV Subdivision File)
2. This development plan proposal has followed the necessary application procedures and has been reviewed within the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations. (Adams Acres IV Subdivision File)

Conclusions of Law

1. The preliminary plat and subdivision application meet all applicable standards required in the RCSR.
2. The procedures for the application and review of this proposed subdivision as outlined in Chapter 3 of the RCSR, have been followed.

B. Applicable zoning regulations.

Findings of Fact

1. The subject property is under the jurisdiction of the interim zoning regulation limiting residential subdivisions to a density of one dwelling per two acres. (Resolution 2038).
2. The property is not within one of the voluntary zoning districts in Ravalli County. (Adams Acres IV Subdivision File)

Conclusion of Law

This proposal complies with existing zoning regulations.

C. Existing covenants and/or deed restrictions.

Finding of Fact

1. There are existing covenants on the property included in document #144322. (Adams Acres IV Subdivision File)
2. The covenants include a 50-foot building setback from roads and other property lines, provisions for the burial of utility lines, restrictions on the type of dwellings, and provisions for the orderly development of the area. (Document # 144322)

Conclusion of Law

The proposal appears to comply with existing covenants.

D. Other applicable regulations.

Findings of Fact

1. Following are applicable regulations:
 - Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
 - Montana Sanitation in Subdivisions Act, Title 76, Chapter 4, MCA
 - Ravalli County Subsurface Wastewater Treatment and Disposal Regulations
 - Montana Standards for Subdivision Storm Drainage (DEQ Circular 8)

- Applicable laws and policies requiring permits related to development (U.S. Army Corps of Engineers, Bitterroot Conservation District, Ravalli County Road & Bridge Department, Montana Department of Transportation, Montana Department of Environmental Quality, etc.)
- 2. Prior to final plat approval, the applicants are required to submit permits and evidence that they have met applicable regulations. (Section 3-4-4(a), RCSR)

Conclusion of Law

With the requirements of final plat approval, the application will meet all of the applicable regulations.

E. The MSPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria:

CRITERION 1: EFFECTS ON AGRICULTURE

Findings of Fact:

1. The proposed minor subdivision on 18.8 acres will result in five lots that range in size from 2.01 acres to 5.86 acres. The property is located approximately 3 miles south of the City of Hamilton off U.S. Highway 93. (Adams Acres IV Subdivision File)
2. The property is adjacent to other agricultural properties. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services and 2005 Aerial Photography created by the National Agricultural Imagery Program)
3. The property has not been used for agricultural purposes for several years. (Adams Acres IV Subdivision File)
4. According to the US Department of Agriculture, Soil Conservation Service's "Special Soil Interpretations Report", there are two types of soil listed as Prime Farmland Soils (Hb and Hd on the plat). These soils compose approximately 30% of the property. (*Special Soil Interpretations Report*, published May 1959, Soil Conservation Service (NRCS))
5. The applicants submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated Spotted Knapweed, Canada Thistle, Common Tansey, Leafy Spurge, and Houndstongue were scattered on the property. The plan has been approved by the Weed Board and Section 3-4-5(b)(vi) requires that the plan is filed with the final plat. According to MCA 7-22-2152, any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, the plan shall be submitted to the weed board for approval by the board. (Adams Acres IV Subdivision File)
6. *Following are conditions and requirements of final plat approval that will help mitigate the impacts of the subdivision on agriculture:*
 - *A notification of proximity to agricultural operations shall be included in the notifications document filed with the final plat. The protective covenants,*

also filed with the final plat, shall include a provision requiring homeowners to keep pets confined to the house, a fenced yard, or in an outdoor kennel. (Conditions 1 and 2)

- The approved Ground Disturbance and Noxious Weed Management Plan is required to be submitted prior to final plat approval. (Final Plat Requirement 11)*
- A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on agriculture will be reduced.

CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES

Finding of Fact

1. There are four water rights associated with this property. Water right 76H 169816 is a decreed right that appropriates 112.2 gallons per minute (GPM) from Roaring Lion Creek. Water right 76H 169817 is a decreed right that appropriates 58.34 GPM from Roaring Lion Creek. Water right 76H 169818 is a decreed right that appropriates 224.4 GPM from Roaring Lion Creek. Water right 76H 169819 is a decreed right that specifies a source from Roaring Lion Creek, but does not appropriate an amount. There is not an irrigation district, association, water commissioner, or provider associated with the water right. (Adams Acres IV Subdivision File)
2. The applicant is proposing to divide the water rights so that Lot 1 receives 124.94 GPM, Lot 3 receives 100 GPM, Lot 4 receives 70 GPM, and Lot 5 receives 100 GPM. The applicant is proposing an irrigation agreement that outlines the division of water rights. (Adams Acres IV Subdivision File)
3. A ditch travels from Roaring Lion Creek to deliver water to the property. This ditch traverses proposed Lots 1, 3, 4 and 5. As designed, proposed Lot 2 will not have access to irrigation water from the ditch. (Adams Acres IV Subdivision File)
4. The applicant is proposing a 10-foot wide easement centered on the ditch. (Adams Acres IV Subdivision File)
5. The applicant is proposing a 10-foot wide drainage easement centered on an existing drainage swale, which leads from the cattail marsh to the Bitterroot River. There is no evidence in the application that Lot owners have the right to any water that may be found in the swale. (Adams Acres IV Subdivision File)
6. *The following conditions and final plat requirements will held mitigate the impacts of the subdivision on agricultural water user facilities:*
 - A notification of water rights shall be included in the notifications document filed with the final plat. (Condition 1)*
 - A notification of irrigation facilities and easements shall be included in the final plat. (Condition 1)*

- *The irrigation easement and drainage easement shall be shown on the final plat as they were shown on the preliminary plat. (Condition 15)*
- *The applicant shall submit a master irrigation plan, which includes a diagram of existing irrigation infrastructure/easements either on the final plat or in a separate document and the irrigation agreement, with the final plat application. In addition to the required provisions in Section 3-1-5(a)(xxxv), the applicant shall provide a detailed description of the existing water rights in the irrigation agreement, which will include copy(s) of the abstract(s) delineating the existing rights. (Condition 16 and Final Plat Requirement 20)*
- *The signature of any downstream water users is required when alteration to an irrigation ditch is proposed. (Final Plat Requirement 21)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, there will be minimal impacts on agricultural water user facilities.

CRITERION 3: EFFECTS ON LOCAL SERVICES

Findings of Fact:

Fire Department

1. The subdivision is located within the Hamilton Rural Fire District. (Adams Acres IV Subdivision File)
2. The All Valley Fire Council, which includes the Hamilton Rural Fire District, has adopted Fire Protection Standards (outlined in document from the Hamilton Rural Fire District) that address access, posting of addresses, and water supply requirements. (Exhibit A-6)
3. *The following conditions will mitigate impacts of the subdivision on the Fire District:*
 - *Provisions in the covenants requiring that addresses are posted as soon as construction begins and that all driveways over 150 feet meet the standards of the Fire District. (Condition 2)*
 - *The covenants shall include a recommendation that houses within this subdivision be built to International Residential Building Code (IRBC) building standards. For more information, contact the Montana Department of Labor and Industry, at PO Box 1728, Helena, MT 59624-1728 or call 406-444-2840. (Condition 2)*
 - *The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Condition 4)*
 - *Prior to final plat approval, the subdividers shall provide a letter from the Hamilton Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdividers may provide evidence that a \$500-per-lot contribution has been made to the Hamilton Rural Fire District with the*

final plat submittal in lieu of the required water supply or water storage for fire protection. (Condition 5)

- *The following statement shall be shown on the final plat: "The All Valley Fire Council, which includes the Hamilton Rural Fire District, has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire District for further information". (Condition 6)*

School District

4. The proposed subdivision is located within the Hamilton School District. (Adams Acres IV Subdivision File)
5. It is estimated that 2 to 3 school-aged children will be added to the Hamilton School District, assuming an average of 0.5 children per household. (Census 2000)
6. The applicant is proposing to contribute \$250 to the School District. (Adams Acres IV Subdivision File)
7. Notification letters were sent to the Hamilton School District requesting comments on January 23, 2007 and January 29, 2008, but no comments have been received from the School District. (Adams Acres IV Subdivision File)
8. The cost per pupil for one year in the Hamilton School District, excluding capital costs, is \$6,619. Taxes from new residents are not immediately available to the school districts. (Exhibit A-7)
9. *Staff recommends that the applicant negotiate a contribution with the BCC, in consultation with the Hamilton School District, if possible, to mitigate potential impacts of the additional students on the School District. (Condition 11 and Final Plat Requirement 24)*

Public Safety

10. The Ravalli County Sheriff's Office provides law enforcement services to this area. (Adams Acres IV Subdivision File)
11. Notification letters were sent to the Ravalli County Sheriff's Office requesting comments on January 23, 2007 and January 29, 2008, but no comments have been received from the Sheriff's Office. (Adams Acres IV Subdivision File)
12. This proposed subdivision is located approximately 3 miles from the Sheriff dispatch in Hamilton. (Ravalli County GIS Data)
13. There are five proposed residential lots within this subdivision. It is estimated at build-out that this subdivision could generate a total of 40 vehicular trips per day, assuming eight trips per day per lot. (Adams Acres IV Subdivision File)
14. The average number of people per household in Ravalli County is 2.5. (Census 2000)
15. The applicant is not proposing a contribution to the Sheriff's Office, E-911, or the Department of Emergency Services. (Adams Acres IV Subdivision File)
16. *To mitigate impacts on Ravalli County Public Safety Services, the subdivider shall submit a (amount)-per-lot contribution to the Ravalli County Treasurer's*

Office to be deposited into an account for Public Safety Services (Sheriff, E-911, DES) prior to final plat approval. (Condition 9)

Roads

17. There are five proposed residential lots within this subdivision. It is estimated at build-out that this subdivision could generate a total of 40 vehicular trips per day, assuming eight trips per day per lot. (Adams Acres IV Subdivision File)
18. US Highway 93, a Federal road maintained by the County, provides access to the site. (Adams Acres IV Subdivision File and Ravalli County GIS Data)
19. The applicant is not required to improve or pay pro rata towards improving Federal roads. (Section 5-4-5, RCSR)
20. There is a proposed Road Maintenance Agreement for the internal roads Sunhawk Lane and Dalton Avenue. (Adams Acres IV Subdivision File)
21. Sunhawk Lane is an existing gravel road that serves 17 other properties to the north of this proposed subdivision. (Ravalli County GIS Data)
22. The applicant is proposing stop signs and road name signs at the intersections of Dalton Avenue with Sunhawk Lane, and at the intersection of Sunhawk Lane with US Highway 93. (Adams Acres IV Subdivision File)
23. The road plans have received preliminary approval from the Ravalli County Road and Bridge Department. (Exhibit A-5)
24. *To mitigate impacts on the roads leading to the subdivision, the following conditions and requirements shall be met:*
 - *A copy of the General Discharge Permit for Stormwater Associated with Construction Activity from DEQ shall be submitted prior to final plat approval, if applicable. (Final Plat Requirement 10)*
 - *Prior to final plat approval, evidence of Ravalli County approved road name petitions for each new road shall be provided. (Final Plat Requirement 14)*
 - *Final Road Plans and Grading and Storm Water Drainage Plans for the internal roads shall be submitted with the final plat submittal. (Final Plat Requirement 16)*
 - *A Road Maintenance Agreement shall be signed, notarized, and submitted for the internal roads. (Final Plat Requirement 19)*
 - *A notification of the Road Maintenance Agreement for the internal roads shall be included in the notifications document filed with the final plat. (Condition 1)*
 - *The Road Maintenance Agreement shall state that other parcels that may have beneficial use of the roads shall be allowed to join as members of the agreement without the consent of the current members. (Condition 12)*
 - *To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plat shall address these services/facilities. (Conditions 2 and 3)*
 - *Stop signs and road name signs shall be installed at the intersection of Dalton Avenue with Sunhawk Lane and at the intersection of Sunhawk Lane with US Highway 93 prior to final plat approval. (Condition 8)*

- *The easements for the internal subdivision roads shall be labeled as public road and utility easements on the final plat. (Condition 10)*
- *The final plat shall show no-ingress/egress zones along the US Highway 93 and a portion of the Sunhawk Lane frontages of the subdivision, excepting the approved approaches to Sunhawk Lane from US Highway 93, as approved by the Montana Department of Transportation. [See Map 2] (Condition 7 and Final Plat Requirement 2)*
- *A notification of the limitation of access will be included in the notifications document. (Condition 1)*
- *The applicant shall submit a final approved approach permit from the Montana Department of Transportation prior to final plat approval. (Final Plat Requirement 13)*

Ambulance Services

25. Ambulance services will be provided by Marcus Daly Memorial Hospital EMS Department. Marcus Daly was contacted, but no comments have been received to date. (Adams Acres IV Subdivision File)
26. *To mitigate impacts on emergency services, the subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Condition 4)*

Water and Wastewater Districts

27. Individual wells and wastewater treatment systems are proposed to serve the lots. The property is not near any municipal water or wastewater systems. (Adams Acres IV Subdivision File)

Solid Waste Services

28. Bitterroot Disposal provides service to this site. (Adams Acres IV Subdivision File)
29. Notification letters were sent to Bitterroot Disposal requesting comments on January 23, 2007 and January 29, 2008, but no comments have been received. (Adams Acres IV Subdivision File)

Mail Delivery Services

30. The United States Postal Service (USPS) sent a letter to the Planning Department on June 8, 2007 and an email on June 29, 2007 requesting that Collection Box Units (CBUs) be required for all subdivisions with eight or more lots (or if the local post office requests a CBU) and that the locations of the boxes be approved by the USPS (Exhibit A-8).
31. *To mitigate impacts on local services, the applicants shall provide evidence that plans for a CBU (location and specifications) have been approved by the local post office. (Condition 13)*

Utilities

32. The proposed subdivision will be served by Northwestern Energy, Ravalli Electric Cooperative, and Qwest Communications. Utility companies have been notified of the proposed subdivision. (Adams Acres IV Subdivision File)

33. Notification letters were sent to the utility companies requesting comments on January 23, 2007 and January 29, 2008. No comments have been received by either power company. (Adams Acres IV Subdivision File)
34. *The following requirements will mitigate impacts of the subdivision on local utilities:*
- *Existing and proposed utility easements shall be shown on the final plat. (Final Plat Requirement 2)*
 - *The applicant shall submit utility availability certifications from Northwestern Energy, Ravalli Electric Cooperative, and Qwest Communications prior to final plat approval. (Final Plat Requirement 18)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on local services will be reduced.

CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT

Findings of Fact:

Surface Water Features

1. The Bitterroot River, on the eastern property boundary, is considered a "waters of the United States" and is therefore protected under the Clean Water Act. (33 Code of Federal Regulations Part 328)
2. The plat shows a "Spring Area" on Lot 3, and a number of other identified wetlands. George Chaffee, Resource Consultant, completed a wetlands evaluation for the property and determined that the "spring area" is a wetland, because all three wetland indicators (vegetation, soils, and hydrology) are present. Mr. Chaffee categorizes this area as a cattail marsh. (Adams Acres IV Subdivision File)
3. A proposed 10-foot drainage easement extends from the cattail marsh, traverses Lot 2 and Lot 1 and empties into the Bitterroot River. It is unknown whether a surface water connection exists between this identified wetland and the Bitterroot River, and therefore it is unknown whether the wetlands are considered to be under the jurisdiction of the US Army Corps of Engineers. (Adams Acres IV Subdivision File and Staff Determination)
4. An existing irrigation ditch traverses proposed Lots 1, 3, 4 and 5. The ditch appears to run through areas that have been identified on the plat as wetlands. It is unknown whether a surface water connection exists between this identified wetland and the Bitterroot River, and therefore it is unknown whether the wetlands are considered to be under the jurisdiction of the US Army Corps of Engineers. (Adams Acres IV Subdivision File and Staff Determination)
5. Only the Army Corps of Engineers can legally determine whether wetlands are considered 'jurisdictional'. (USACE)
6. The applicant is proposing a no-build/alteration zone on the identified wetland areas, and other areas with thick vegetation and steep slopes. (Adams Acres IV Subdivision File)
7. The applicants are proposing individual wells and wastewater treatment facilities for all Lots. The applicants submitted water and sanitation

information per MCA 76-3-622 for the proposed systems. (Adams Acres IV Subdivision File)

8. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Exhibit A-3, MCA 76-3-622)
9. *To mitigate impacts on the Natural Environment, the applicant is required to complete the following:*
 - *Submit a DEQ Certificate of Subdivision Approval prior to final approval. (Final Plat Requirement 9)*
 - *The no-build/alteration zones shall be shown on the final plat as proposed on the preliminary plat. (Condition 14 and Final Plat Requirement 2)*
 - *A provision explaining the no-build/alteration zones shall be included in the covenants. (Condition 2)*

Light Pollution

10. The addition of residences in this area has the potential to increase light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution. (International Dark Sky Association)
11. *To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*

Air Pollution

12. The Montana DEQ has identified that burning sources – such as fireplaces and wood stoves – are the most common sources of particulate matter (PM-10 and PM-2.5). The smaller PM-2.5 particles, often referred to as "fine particulates," are easily inhaled and can cause tissue damage, emphysema, bronchitis, and cardiovascular complications. Children, seniors, and individuals with pre-existing respiratory diseases are most susceptible to these health risks. (Montana DEQ Citizens Guide to Air Quality in Montana: <http://www.deq.mt.gov/AirMonitoring/citguide/understanding.asp>)
13. *To mitigate impacts on air quality, the covenants shall include a provision recommending that homeowners refrain from installing wood stoves. (Condition 2)*

Vegetation

14. The applicants submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated Spotted Knapweed, Canada Thistle, Common Tansey, Leafy Spurge, and Houndstongue were scattered on the property. (Adams Acres IV Subdivision File)
15. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (MCA 7-22-2152)
16. According to the Montana Natural Heritage Program, the Palish Sedge was identified

as a plant species of concern that could exist in the same section as the proposal. The subdivider requested and received a waiver from the requirement to submit a sensitive species report for the species based on a lack of habitat on the property and because of the substantial no-build/alteration zones proposed. (Exhibit A-4 and Adams Acres IV Subdivision File)

17. There are areas on the plat identified as being wetlands. Additionally, there are areas on the property that support thick vegetation. (Adams Acres IV Subdivision File and Site Visit)
18. *To mitigate impacts on natural environment, the following items will be required for final plat approval:*
 - *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*
 - *The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision. (Final Plat Requirement 11)*
 - *The no-build alteration zones will be shown on the final plat as proposed on the preliminary plat. (Condition 14 and Final Plat Requirement 2)*
 - *The covenants shall include a provision explaining the no-build/alteration zones. Condition 2)*
 - *A notification of the no-build/alteration zones shall be included in the notifications document. (Condition 1)*

Historical/Archeological Sites

8. There are no known sites of historical significance on the property. (Adams Acres IV Subdivision File)
9. *To ensure that any possible historical sites are preserved, the following statement shall be included in the covenants: "If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the State Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate". (Condition 2)*

Conclusion of Law:

Impacts from this subdivision on the natural environment will be reduced with the mitigating conditions and requirements of final plat approval.

CRITERION 5: EFFECTS ON WILDLIFE & WILDLIFE HABITAT

Findings of Fact:

7. The main stem of the Bitterroot River forms the eastern property boundary. The significant amount of wetlands and riparian areas associated with this property most likely provides wildlife habitat. FWP did not comment on this subdivision, but provided comments for a similar proposal. Their comments were that living with wildlife and no-build/alteration zone provisions should be included in the covenants. (Adams Acres IV Subdivision File)
8. The property is not located within big-game winter range. (FWP GIS Data)
9. According to the Montana Natural Heritage Program, the Bull Trout, Cutthroat Trout and Townsends Big-Eared Bat were identified as animal species of concern that could exist in the same section as the proposal. The subdivider requested and

received a waiver from the requirement to submit a sensitive species report for the species based on a lack of habitat on the property and because of the substantial no-build/alteration zones proposed. (Exhibit A-4 and Adams Acres IV Subdivision File)

10. *To mitigate impacts on wildlife, the following conditions shall be met:*

- *The covenants shall include a living with wildlife section. (Condition 2)*
- *The protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*
- *The no-build alteration zones will be shown on the final plat as proposed on the preliminary plat. (Condition 14 and Final Plat Requirement 2)*
- *The covenants shall include a provision explaining the no-build/alteration zones. (Condition 2)*
- *A notification of the no-build/alteration zones shall be included in the notifications document. (Condition 1)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts on Wildlife & Wildlife Habitat will be reduced.

CRITERION 6: EFFECTS ON PUBLIC HEALTH & SAFETY

Findings of Fact:

Traffic Safety

1. Access is proposed off US Highway 93. (Adams Acres IV Subdivision File)
2. *The requirements and conditions listed under Roads in Criterion 3 (Effects on Local Services) will mitigate the impacts of the subdivision on traffic safety.*

Emergency Vehicle Access and Response Time

3. The proposed subdivision will be served by the Hamilton Rural Fire District, the Ravalli County Sheriff's Office, Ravalli County E-911, and the Ravalli County Department of Emergency Services, Missoula Emergency Services, and Marcus Daly Memorial Hospital EMS Department. (Adams Acres IV Subdivision File)
4. *The requirements and conditions listed under Fire Department, Public Safety, Emergency Services, and Roads in Criterion 3 (Effects on Local Services) will mitigate the impacts of the subdivision on emergency vehicle access and response time.*

Water and Wastewater

5. The applicant is proposing individual wells and wastewater facilities to serve all lots. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Adams Acres IV Subdivision File and Exhibit A-3)
6. *The applicant is required to submit a DEQ Certificate of Subdivision Approval prior to final approval. (Final Plat Requirement 9)*

Natural and Man-Made Hazards

7. According to a document titled "Radon and You, Promoting Public Awareness of Radon in Montana's Air and Ground Water" published by DEQ and the Montana Bureau of Mines and Geology, there is a high potential for radon in Ravalli County. (DEQ)

8. A portion of the southeast corner of the property may be located within the Painted Rocks and Lake Como Dam inundation areas. (Ravalli County GIS department data)
9. The preliminary plat and soils map indicate there are soil types on the property that are considered severe for construction of roads and/or buildings. (Adams Acres IV Subdivision File)
10. The Bitterroot River forms the eastern property boundary. A survey for the property shows that the top of the bank is also the same as the edge of the floodplain. Though the area defined as floodplain is currently encumbered by a no-build/alteration zone, rivers and streams are prone to migration, which could affect the boundary of the floodplain. (Floodplain Management Study Bitterroot River, Ravalli County, Montana (November, 1995) and RCSR Section 5-2-1(3))
11. The Montana Rail-Link railroad is located approximately 200 feet from this development, across the street from US Highway 93. (Ravalli County GIS Data)
12. *To mitigate impacts on the public's health and safety, the following conditions shall be met:*
 - *The covenants shall include a statement regarding radon exposure. (Condition 2)*
 - *The protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*
 - *The notifications document shall include a statement regarding the proximity of the Painted Rocks and Lake Como Dam inundation areas. (Condition 1)*
 - *A notification of severe soils shall be included in the notifications document. (Condition 1)*
 - *A notification of the proximity of the Bitterroot River will be included in the notifications document. (Condition 1)*
 - *A notification of the proximity of the railroad shall be included in the notifications document, and a provision regarding floodplain development shall be included in the covenants. (Conditions 1 and 2)*

Conclusion of Law:

The mitigating conditions and requirements of final plat approval will address impacts on Public Health & Safe

Commissioner Grandstaff opened public comment.

Terry Nelson stated they agree with the Staff Report. He would like to update the mitigation. **He offered mitigation of \$500 per lot to the Fire Department payable now, \$1,280 to the School District per lot half paid now and the remainder payable upon first sale, \$500 to the Public Safety Services per lot payable upon first sale, \$250 to the Open Lands program per lot half paid now and the remainder payable upon first sale, \$200 to the County general fund per lot half paid now and the remainder payable upon first sale.**

Commissioner Grandstaff asked for any further comment, hearing none, close public comment. She then opened Board deliberation.

1. Effects on Agriculture: Commissioner Rokosch questioned the prime farm land at 30%. Howard Anderson stated the original soils at 30% are correct. However someone cleaned off the good topsoil so there is nothing but gravel on top right now. He stated they can not correlate the new soils map with the old soils map.

Terry stated it is very rocky and it is not good for farming. The wetland area is a no built/alternation zone. Commissioner Grandstaff asked about the removal of the topsoil. Howard replied the County Road & Bridge Department came in a while ago and removed it for the trails. Commissioner Rokosch asked about the lots it would affect. John replied HB & HD on the center of the property. Commissioner Rokosch clarified the offered mitigation being \$250 per lot to the Open Lands program. Terry replied that was correct.

All Commissioners voted sufficiently mitigated.

3. Effects on Agricultural Water Users: Commissioner Grandstaff noted there are four rights associated with this property. She discussed Roaring Lion buying as much water as they could. She asked how old the water rights are. Terry replied he doesn't know. There are times where it is dry and other times water is rushing through. The use won't be affecting anyone down stream. He also stated there is a good chance not all of their water will make it into this ditch all the time. Steve Jarvis stated he has third water rights which go back to 1890. There are five properties on the road and all have similar rights to the ditch. They have water all year in the ditch. Commissioner Grandstaff asked if the water is used on the property. Terry replied he is not sure. Steve stated he maintains the flow to all properties. Commissioner Grandstaff asked Steve if Roaring Lions Ranch bought water rights from Roaring Lion Estates. Steve replied the water rights have been over adjudicated. The original owners of the water rights have moved away but there has been recent water rights mapped. Howard stated Roaring Lion Ranch has not bought water rights but are stealing them. He stated the water was running until August 20th of last year. Commissioner Chilcott stated whether it is adjudicated or not does not take away the water rights.

Commissioner Grandstaff stated it is bare land and no one has used the water rights in years. Now there are going to be houses on the property and some years they will not have irrigation water. Commissioner Chilcott stated according to Howard, there are upstream water users. Commissioner Grandstaff stated her concern in subdividing this property is the expectation of owners using the ditch for irrigation. Commissioner Rokosch asked if they are proposing to keep those water rights. John replied they are reacting to the proposal. Terry stated they can split the water rights any way they want. Commissioner Grandstaff asked if the tribes weigh in on the issue. Terry replied he believes they are one group of the people battling over it now.

Commissioner Rokosch stated another concern is the easement being proposed. There has been recent discussion of the irrigation association, the easement on the ditches and if

they are adequate for maintenance. He noted they could have a physical easement and it may be enough, but how do you get a piece of equipment to it. He sees this as being a problem. Howard replied a small backhoe is the preferred method. The 10 foot easement is adequate for equipment. Commissioner Chilcott stated that is what he uses and it is fine for the 10 foot easement. John stated he met with Daly Ditches and asked what the typical easement width is. They replied 10 feet is standard. If there are slopes you would need 15 to 20 feet, but there are no slopes on this property. Commissioner Rokosch asked if John had any consideration for the slopes on the other areas of the property. Howard replied they could run a backhoe over the whole ditch easement. However, upstream are rocks and boulders.

Commissioner Grandstaff asked if the water rights were still in court and if they were close to making a decision. Steve replied not yet. He is listed on eight different water rights and it was narrowed down to two. DNRC is getting a handle on who is the remaining owners. Commissioner Rokosch asked if the ditch was cleaned out. Howard replied yes and it was done with a backhoe in the 10 foot width straddling the ditch.

All Commissioners voted sufficiently mitigated.

3. Effects on Local Services: Commissioner Chilcott recapped the offered mitigation. Commissioner Rokosch asked if the CPI would be included with the payables upon final conveyance. Terry agreed to that.

Terry discussed the Park Board's decision on the cash in lieu, whereas they are proposing more than an adequate area. They have designated a no build/alteration zone on the wetlands. They had marked that area for several different reasons. Commissioner Rokosch stated in terms of Park Land dedication, their definition of park land is for recreational use. This is not set aside for recreation use, it is wetland. A lot of times there are no build/alteration zones due to slopes. He believes there is a different purpose for this land than for park land dedication. The recommendation from the Park Board is to not accept the land but rather cash in lieu. Alex stated the subdivider will make an offer of cash in lieu or park land. The decision to accept cash in lieu or park land is up to the Board. Commissioner Chilcott asked what the intent for the park land is in this development. Terry stated there are areas with wetlands but in this case there is great benefit for people who use the river with the setbacks proposed. They have discussed putting in a walking path to the river and allowing the landowners to have access to this path. Commissioner Chilcott stated park land is open to more than the landowners there. Terry stated they are proposing park land dedication as a protection for wildlife and wildlife habitat.

Commissioner Driscoll stated the Park Board has a master plan which brings people together for recreational areas as they do not want tiny pieces all over the county. She suggested finding out the value of the property and offer that amount for the cash in lieu. Terry stated that is a different concept than what he thought. Commissioner Driscoll stated the Park Board currently has property which no one can build on or utilize as recreational. Terry stated they are proposing the no build/alteration zones to protect

wildlife and wildlife habitat as required by State law. Alex stated he understands no one is determining this as useable park land, therefore the Board can request cash in lieu.

Commissioner Chilcott stated the Board can debate this, but it is his personal opinion these zones can provide a good buffer for this land. He also felt it is a significant contribution.

Commissioner Grandstaff asked if cash in lieu would change their development plan. Terry replied no. Developer Jack Adams stated it is easy for the Commissioners to say 'just pay cash in lieu', but this is coming out of his pocket. Commissioner Chilcott stated this is a park land being dedicated to each landowner. At his residence, the land is his park.

Board discussion followed regarding park land dedication. Alex stated the list of park land dedication does include setting it aside for wildlife and it is the decision of the Board to accept it or not. Commissioner Chilcott stated he doesn't understand how to consider both. John asked about a compromise.

Alex stated it would be more appropriate to have some regulation in the regulations. He stated the Developer is not adding anything for park land but it is not being dedicated for parks, rather it is being dedicated for wetlands because of the slopes. He thinks in some cases it could work if land was dedicated purely for park.

Commissioner Rokosch suggested taking the Park Board's recommendation. Commissioner Chilcott suggested negotiating with the Park Board. He suggested talking with the developer in regard to negotiations. Commissioner Rokosch discussed the Park Board Master Plan and open lands having access.

Terry stated they would mitigate paying half of the cash in lieu or try to come up with some relative numbers. When the land was purchased it cost \$10,000 per acre. A half acre would be \$5,200. However, another part of the process is having an appraisal which cost \$500. Terry stated they propose paying \$2,500 to the Park Board for cash in lieu. Commissioner Chilcott stated he would accept that. Commissioner Grandstaff confirmed they are proposing to keep the land as no build/no alteration zone plus give \$2,500 for cash in lieu? Terry recommended the Board read the park land dedication requirements. The way it reads is providing park land benefits. Commissioner Grandstaff asked if the no build/alteration is for all the lots.

Commissioner Grandstaff, Commissioner Chilcott, and Commissioner Driscoll voted sufficiently mitigated with the offer of cash in lieu for Park Land dedication in the amount of \$2,500, and that the final plat shall show all no-build/alteration zones as shown on the preliminary plat. Commissioner Rokosch voted non-sufficient.

Commissioner Rokosch asked about the bus turn out. Steve replied there is a turn out at the end of the road. Commissioner Rokosch asked about the pick up zone on the highway easement. He would ask for a condition in order to negotiate with the Hamilton School

District. Howard stated there is 35 feet between the road and the highway which allows plenty of room for a school bus to pull in there. He stated it is up to the school department and the highway to determine. Commissioner Rokosch stated he would like a letter from Hamilton School District for the bus turn out. John added a letter from MDOT as well. Alex stated it depends upon the location if a letter from MDOT was even needed. Terry stated MDOT needs to approve the approach anyway. He does not see why MDOT would need to approve the bus turn out unless the school district wants them to. Commissioner Driscoll asked Steve if his children are in the road or on a path when walking to the bus. Steve replied it is just a gravel road. Howard replied they are building a shoulder on the road. Steve stated he believes that would be sufficient. Terry stated the road will be county standard and paved half way up to the culvert. Steve stated the road is low at that location and it fills with water. For emergency access, the paving will solve the problem. Howard explained the road will be raised with two foot gravel shoulders on each side.

Commissioner Driscoll asked about the 10 foot paved access for landowners. Terry replied that is the proposed access for landowners. Commissioner Driscoll stated it is not safe for the kids and asked about the traffic. Howard replied the road has light traffic. Commissioner Driscoll asked if there could be another walkway easement for the children. Terry replied the road is going to be doubled in width. Commissioner Driscoll stated she would like language that delineates the use of the easement for the walkway. John added the Park Board recommends adding an additional 10 feet for trails. He recommended separating the path from the road. It was agreed to add an additional 10 feet of easement for a path for the children to walk to the bus. Alex stated MDOT is not in any hurry to extend the bike path for the bridge. Terry stated the right of way is 100 feet on both sides of the bridge. Howard stated ASHTOW standards for Highway 93 type of traffic includes the right of way standards. The right of way for the interior road is 60 feet, They are only going to be using 40 feet of the 60 feet. They have plenty of room for bike paths. There would be a separation of the road and the path. Terry stated there is room there for walking paths. Commissioner Driscoll asked for an additional 10 feet of easement. Terry stated the existing 60 feet width is more than adequate for a path. Planner Renee Lemon suggested having the additional 10 feet, making it 70 feet. Steve stated 70 feet is overkill and 60 feet it is fine for his children.

Commissioner Grandstaff recapped that the proposed 60 foot road easement should be shifted to the east to allow for more easement along that side should a trail ever be constructed there, and that the proposed 10 foot easement path to the river be shown on the final plat.

Commissioner Rokosch recommended when negotiating with the school district to include the possibility of a bus shelter. Commissioner Grandstaff also noted the agreed donation to the school district of \$1,280 payable per lot to be split half prior to final plat approval and the remainder upon first conveyance with CPI calculated.

Commissioner Rokosch discussed the close proximity to the river with the individual wells and septic. Howard stated they do have preliminary approval from DEQ. He stated

they are improving the drain fields as well. Commissioner Driscoll asked if there will be any agreements with the septic. Howard stated it is required for maintenance and he also has a maintenance camera to observe what is going on. Testing and pumping are in the requirements of the DEQ approvals. Commissioner Driscoll questioned the pharmaceuticals requirements. Howard replied it is also included in the DEQ requirements. Commissioner Driscoll asked about the clay layer. Howard replied yes there is clay layer.

Commissioner Grandstaff, Commissioner Chilcott, Commissioner Driscoll voted sufficiently mitigated. Commissioner Rokosch voted non-sufficient based on the school contribution.

4. Effects on Natural Environment: Commissioner Rokosch discussed the proposed streamside setback of the river. He stated he would like to see comment. Terry stated with the no build/alteration zone and the test hole is on the building sight is already 200 feet away. The setback concern is addressed with the building area. John stated a building envelope is suggested. Commissioner Grandstaff asked if a building envelope would be considered. Terry stated it would be drawn on the final plat. Howard stated they have set back the building elevations for the shed and flooding and it is in the preliminary DEQ report.

Commissioner Grandstaff asked about the woodstoves. John read the condition reading woodstoves would not to be used as a primary heat source and be EPA approved.

Commissioner Rokosch questioned the connection to the river. Terry pointed it out on the map.

All Commissioners voted sufficiently mitigated with the building envelope being included.

Commissioner Rokosch discussed notification of soil disturbance and notification to the Weed District for road construction.

5. Effects on Wildlife and Wildlife Habitat: Commissioner Rokosch stated he would like to know Fish, Wildlife and Park's take on the subdivision, however it was not included. He asked if no comment has been received, would there be follow up prior to the public hearing. John replied typically no. If no reply has been received, they move forward. Commissioner Chilcott stated there is a wildlife covenant which is typical of what is received back. If the agency does not respond, it is not the responsibility of the staff to hunt them down. The county has fulfilled their responsibility by contacting them. Commissioner Rokosch stated this is critical information pertinent to wetlands. These wildlife habitats are highly valued and therefore it is important to raise the question. Commissioner Grandstaff stated she would usually agree but in this situation, she is not concerned with the 200 foot setback.

Renee stated they do follow up on responses but in this case there is already a 200 foot setback.

All Commissioners voted sufficiently mitigated.

6. Effects on Public Health and Safety: Commissioner Driscoll asked about the bridge traffic and access. Alex replied MDOT has formulas for site distances. Commissioner Driscoll stated access is one thing but in the flow of traffic is hard to stop there. Commissioner Grandstaff agreed. Board discussion followed regarding the existing access.

Gene Williams discussed having speed limits. Commissioner Grandstaff replied the State sets the speed limits for the highway not the Board. Board discussion followed regarding the speed limit and the approach permit from MDOT. The Board showed concern with the ability to turn in and out of the road with oncoming traffic traveling at 70 miles per hour. It was the Board's consensus to contact MDOT to seek a reduction in the speed limit and any alternatives to approach to the access.

All Commissioners voted sufficiently mitigated including a letter to MDOT for a reduction in speed limit and an alternative to the approach to the access.

Commissioner Grandstaff requested a recap of mitigation.

John recapped the mitigation as follows:

\$500 per lot to the Fire Department payable prior to final plat approval, \$1280 to the School District per lot half paid prior to final plat approval and the remainder upon first conveyance with CPI adjustments, \$500 per lot to the Public Safety Services payable upon first conveyance with CPI, \$250 to the Open Lands program per lot payable upon first conveyance with CPI, \$200 to the county general fund per lot payable upon first conveyance with CPI, cash in lieu for Park Land dedication in the amount of \$2,500 payable prior to final plat approval and the wetland area be kept as no build/alteration zone, the road easement be moved to the east to allow room for a walking path and the separate 10 foot easement path to the river (as proposed on the preliminary plat), the recommendation when negotiating with the school district for a bus turn out to include the possibility for a bus shelter, the building envelope being included on Lot 1 and a letter to MDOT to express the Board's concern with the speed limit and the approach to the access.

Commissioner Chilcott made a motion to approve Adams Acres Four Minor Subdivision based on the findings of fact and conclusions of law in the Staff Report and subject to the conclusions in the Staff Report as amended here today. Commissioner Driscoll seconded the motion all voted 'aye'.

► Minutes: Glenda Wiles

► The Board met with Maintenance Supervisor Brian Jameson to award the Courthouse roofing over the District Court Judges area and the Administrative Center. Brian relayed he reviewed the bids in order to make sure they satisfied the Request for Proposal. It was noted one bid from Summit Roofing submitted a warranty of 30-years for the roofing when the requirement was a 50-year warranty. Brian visited with them and they stated their bid was a clerical error as the shingle as noted in the bid is actually a 50-year bid. Civil Counsel Alex Beal was now present. He noted there are some areas where a clerical error would not be allowed, however in this instance this seems to be a clerical error and is in conformance with the Request for Proposal, as the actual shingle they bid is a 50-year shingle. Brian expressed some concern over this error when the bids were open and available to the public. Commissioner Chilcott stated a 50-year shingle has better warranty and probably cost more than a 30-year shingle. He feels they met the actual warranty with the shingle they bid, and the actual bid costs did not change. Alex stated this clerical error does not bother him and could be accepted as meeting the Request for Proposal.

Bill Johns of Summit Roofing was now present. He stated this was a simple mistake by the person who prepared the bid and he has all the actual bids to show the shingle calculations as 50-year.

The Commissioners concurred there would be no reason not to award the roofing to the lowest bid, which included the submittal of Summit Roofing. **Commissioner Rokosch made a motion to award the administrative roof to Summit Roofing. Commissioner Driscoll seconded the motion and all voted “aye”.**

In regard to the district court roof, two bids were received from Summit Roofing and Montana Roofman. Brian stated the bid from Summit Roofing did not bid the same style membrane as what was requested in the proposal. He also noted this membrane they bid is different from what exists on the other portion of the roof that was just bid. Discussion took place about the IB membrane style. Commissioner Chilcott stated his concern is on the propriety standard. Brian stated the bid specified IB80 membrane roofing. Bill Johns stated he put in a request for approval on the GAF, but never received a response from Brian. Alex stated if they listed the specific product and that specific product was not met they need to stay with that product. If the Commissioners want something different they would need to go back out to bid.

Commissioner Chilcott stated there is a \$17,000 spread and asked if that difference in cost is due to a propriety difference. He asked Brian why they need this specific product. Brian stated this is a better product. They both come with a 25-year warranty. Commissioner Rokosch stated if that is why you want that particular product that should have been specified in the bid. Bill Johns stated the industry standard is normally 20 years, and going to the 80 mill allows the 25-year warranty. Steve Marshall of The Montana Roofman stated his 25-year warranty does not prorate and does not allow puddling. Bill stated what he bid is not pro-rated. Steve stated the style he bid, meets the 25 year warranty. It was also noted Summit Roofing has asbestos compliance. Steve had

to sub that part of the contract out and that cost was \$14,000 which makes up the difference in the cost.

Commissioner Chilcott stated they should meet the standard not the propriety product. **Commissioner Chilcott made a motion to reissue the RFP for the courthouse roof without listing any product name, rather to list the performance standard.** He stated he does not want to pay more because they have a different name. Steve stated they are different products; they are made with different materials. He suggested the issues of ponding etc. be addressed in the bid. Alex stated there is some expertise in the room which could be used to help develop the RFP. **Commissioner Rokosch seconded the motion.** Bill stated he has a problem as he asked a question on the GAF in order to receive the TPO as an approved product but Brian did not respond. Brian said he thought Bill was referring to the Administrative Roof. He apologizes for that error.

Steve stated the bids are now public and both companies see each others bid. Alex stated it is what it is, and he suggested they assist in the new RFP language. Commissioner Rokosch stated they should meet the minimum 25-year warranty. Steve stated they will have to specify the type of material. Commissioner Chilcott stated he is not concerned about the type of material, just the number of years in the warranty.

It was agreed to address the material and warranty of the roofing (with single-ply roofing). All voted "aye".

► In other business, **Commissioner Chilcott made a motion to approve the submittal of Reimbursement #3 to the FAA on the AWOS project. Commissioner Driscoll seconded the motion and all voted "aye".**